



Docket No. 03/115

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IN THE UNITED STATES PATENT AND
TRADEMARK OFFICE

In re the Application of: Steven W. Stanton

Serial No.: 10/720,435

Docket No.: 03-115

Examiner: Kim, Eugene Lee

Art Unit: 3721

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RESPONSE TO OFFICE ACTION DATED 12/01/2004

This is a response to the office action dated December 1, 2004. A one-month extension of time is requested for this response. A check in the amount of \$60.00 is enclosed to pay for the extension of time.

Also attached is a Declaration Of Steven Stanton. That declaration fully responds to the actions in the Office Action; although the remarks below may expand and repeat those points.

The Examiner rejected claims 1-4 and 6-13 under section 103 as being unpatenable over Stanton in view of Moser or Lingemann. The rejection is traversed.

In the following comments the Examiner is reminded of the telephone interview of 26 January, 2005 in the parent application, Serial Number 10/456,036. In that interview counsel pointed out important differences in the Stanton and Lingemann references and the absence of any suggestion to combine them. Counsel also pointed out that any combination of Stanton and Lingemann could not reasonably be carried out because Lingemann's structure as applied by the examiner could not be integrated into Stanton's structure and in any case would not result in the claimed structure.

It is submitted that the same arguments are applicable in this case as will be more particularly pointed out below and in the Stanton declaration.

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It is helpful to describe the problem solved by the present invention in view of Stanton '917. In the declaration Mr. Stanton points out that glue contact is the most important variable in the process of manufacturing candy boxes such as heart boxes. Stanton '917 was directed at the same general problem as the present application, but solved it in a different way. The problem is the process of putting a sufficient amount of glue in place to join the separated pieces of paper board used to construct the candy box; namely the side and the closure. In Stanton '917 the solution was to sandwich between the exterior layer 38 and the interior layer 40 a spacer 42. The spacer 42 has scallops 42 around its periphery to create reservoirs for glue. The reservoirs allow a mass of glue to be inserted which can flow against the side resulting in a lot of glue contact with the side because of the thickness of the spacer and a lot of glue contact above and below the spacer onto the exterior and interior layers. The spacer and the interior and exterior layers define a closure assembly.

In the present method as expressed in claim 1 as amended, only a side element and a single closure element are used and glue is directed into the corner formed by them to create a glue fillet. No spacer is used and no glue reservoir is created. Also the amendment specifies that the glue is injected at an angle so as to inject glue directly onto the side and closure simultaneously to create a fillet. The invention recognizes, contrary to the teaching of Stanton '917, that by injecting the glue at an angle into the corner to create a glue fillet, sufficient glue contact is made. This process also allows the gluing to be on either the inside of the box or the outside of the box (see claims 6-inside gluing and claim 7-outside gluing and figs.8a and 8b). Stanton '917 could not do this because the glue reservoirs can only be in a sandwich between an interior and exterior closure, where the spacer is. It completely contradicts the solution of Stanton '917 to omit the spacer; but that is just what the present invention does. In Stanton '917 it was the premise that a reservoir of glue was needed. Now Stanton (also the present inventor) has discovered that that is not necessary to solve the problem; but rather that injecting glue at an angle to create a glue fillet will provide sufficient glue contact on the side element and the closure element.

Also, in claims 9 and 11 a second closure element is placed over the first closure element (see Fig 4); still omitting any spacer, the glue fillet that was previously deposited is sufficient.

The present invention eliminates the need to use a spacer that creates a glue reservoir.

The Examiner's analysis does not account for the presence of the spacer in Stanton '917 when applying Moser et al and Lingemann, nor its absence in the claimed method.

In addition, neither Lingemann nor Moser are box constructions and they are not relevant to the present technical field.

Lingemann relates to insulating glazing which is not relevant nor sufficiently related to candy box construction to allow application of its teachings to the present application. The Examiner applies Lingemann as teaching that adhesive may be injected into the corner, referring to claims 2 and 6 of Lingemann. Claim 2 of Lingemann refers to a spacer frame of an insulating glazing. The purpose is to promote a one-piece spacer frame that does not have the undesired fillets. This is accomplished by creating an opening 16 so that when side wall 10 is bent the opening allows wall 7 and 7a to join at a clean angle with no bulging. The Stanton declaration explains this in detail

Of course this has nothing at all to do with the present invention. In any case Lingemann teaches that an adhesive is injected into the hollow interior of the curved corner. The structure has a hollow interior and according to claims 2 and 6, the hollow interior is injected with fusion adhesive to seal a plug formed thereby within the curved corner, apparently shown in German Patent application No. P32 33 399.4.

The adhesive plug to fill the hollow interior of Lingemann is not a glue fillet in a corner formed by the presently claimed side element and inner closure element.

Consequently, applying the teaching of Lingemann to Stanton would not result in the present claims.

Further, unless the spacer of Stanton '917 is omitted it is not practical nor desirable to provide a fillet of glue because the spacer creates the glue reservoir.

There is no prior art teaching or suggestion or motivation to omit the spacer of Stanton '917 to provide a glue reservoir and to use a glue fillet instead.

The Examiner has also applied Moser et al as using adhesive means 372 along the interior corner 370 and concluded it would provide Stanton '917 with corner adhesive means to solidify the corner for structural reinforcement.

Moser et al is a honeycomb panel foldable between a flat position and a folded position (ABSTRACT).

In Moser et al as in Fig 5, after folding the first and second panel portions 350 and 352 create a corner 370. This is one piece of honeycomb material. To hold them in the folded position a wide strip of single sided adhesive tape 372 is applied to the interior surface of the corner 370 and the inner peripheral edge portions of the first and second top face sheets 360 and 362. But, also a strip of quick-setting adhesive (not shown) can be applied to the surface of the top hollow - cell faces 326 (see Fig 4) just prior to folding the panels.

None of the Moser et al description refers to or renders obvious joining separate side and interior members of a candy box with a glue fillet.

Further, as applied to Stanton '917, there is still the spacer which provides the glue space, which spacer is absent in the present invention and there is no motivation or suggestion in any of the references for eliminating the spacer and using a glue fillet instead.

The Examiner rejected claim 5 under section 103 as being unpatentable over Stanton in view Moser or Lingemann as applied to the claims above and further in view of Matovich. The Examiner noted that the modified Stanton does not show spaced apart tabs for sealing but that Matovich teaches the use of sealing tabs that uses adhesive means to form a superior tight seal and therefore that it would have been obvious to provide the modified invention of Stanton with sealing tabs as taught by Matovich to form a superior tight seal. This rejection is traversed.

Again, referring to the Stanton declaration, Matovich provides tabs to create a contact area for adhesion of congealing polyethylene. The presently claimed tabs serve to locate the closure inside the side. A glue fillet is put in place on the tab and the adjacent side. Between the tabs are spaces.

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Date: March 9, 2005